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Attorneys for Plaintiff MG Prep, Inc.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TESTING TECHNOLOGIES, INC.

and

MG PREP, INC.,

Plaintiffs,

V.

MO MEDIA LLC, PAUL OWENS and  
JOHN DOES 1-10,

Defendants.

[illegible]

Case Number 07 CIV 7360 (WHP)

**PLAINTIFF MG PREP, INC.'S OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS OR TO TRANSFER VENUE**

This memorandum is filed in support of the submission filed January 31, 2008 by co-plaintiff Testing Technologies, Inc. and in opposition to Defendants' Motion to Dismiss or Transfer this action to the U. S. District Court for the Eastern District of Texas.

MG Prep, Inc. fully supports and hereby joins the submission of Testing Technologies, Inc. To supplement the record, MG Prep submits additional background information concerning its own activities and the harm done to it by Defendants' acts. This information is supported by the

Declaration of Andrew Yang, submitted herewith.

MG Prep, Inc. has been in business for over seven years and is a New York corporation with its principal place of business in Manhattan. Its officers and its corporate records are in New York City. Doing business as Manhattan GMAT, it provides products and services to those who intend to take the GMAT (Graduate Management Admission Test) examination. The GMAT is the standardized test used by universities in evaluating applicants to MBA programs. The largest source of customers for MG Prep is the New York area, although the firm has grown and has established locations in other parts of the U.S. It has no offices in Texas.

As with virtually all of the companies offering products and services in the test prep field, the Internet has become the overwhelmingly most important marketing tool. Prospective customers typically will conduct a search using a search engine, most often that provided by Google<sup>®</sup>. Therefore, competitors in the test prep field find that their placement -- higher or lower -- on the list of results obtained from the search is critical to their ability to promote themselves. As comprehensively set forth in Testing Technologies, Inc.'s submission, Defendants' use of false advertising and other acts of unfair competition have resulted in Defendants being able to consistently obtain higher placement on the search result lists. This gives them an unfair advantage in promoting their own products to prospective customers throughout the U.S. and most definitely in this district, which has a high concentration of prospective GMAT takers.

MG Prep has chosen its home forum in electing to be joined as a plaintiff herein, and its choice should not be easily disturbed. Merely shifting the burden of litigating in a distant forum from the defendants to the plaintiffs is improper and does not serve the interests of justice. Also,

Defendants' activities have caused harm in this district, and their website solicits and obtains orders from customers in this district.

For the reasons set forth above, and in the submission of its co-plaintiff, MG Prep respectfully urges the Court to deny Defendants' motion in all respects.

Dated: New York, New York  
February 1, 2008

Respectfully submitted,

/s/  
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